S. B. C. W. P. NO.3062/2004
(Devanand Vs. B.O.R. & Ors.)

DATE OF ORDER : 04.08.2004

HON'BLE SHRI N.P.GUPTA,J.

Mr.R.S.Chundawat for the petitioner.

The grievance of the petitioner is that the appeal should have been filed under the Rajasthan Tenancy Act, which lay before the Division Bench, while it was purportedly filed under Section 76 of the Land Revenue Act, and before the Single Bench, just to avoid the petitioner's caveat.

Perusal of order, Annexure-5 shows that the objection of the present petitioner has been accepted, and it has been found that the appeal did lie under the Rajasthan Tenancy Act, and not under the Rajasthan Land Revenue Act. With this, it has further been found that the appeal filed under the Land Revenue Act cannot be maintained. With this, further direction has been given to the appellant to remove the defects, and liberty has been given to the appellant to move application for condonation of delay, and the appeal was directed to be placed before the Division Bench as an appeal under Tenancy Act. Significantly, at the same time, the counsel for the respondent therein has also been given right to oppose the application for condonation of delay, as well as right to oppose the appeal at the admission stage itself. In that view of the matter, no substantial failure of justice occurrs to the petitioner, so as to require interference by this Court under Article 226.

The writ petition is, therefore, dismissed summarily.

(N.P.GUPTA),J.